

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

PACKAGING MACHINERY
INDUSTRY AND TRADE

AS APPROVED ON OCTOBER 31, 1933

BY

PRESIDENT ROOSEVELT

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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933

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EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE PACKAGING MACHINERY INDUSTRY AND TRADE

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Packaging Machinery Industry and Trade, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of Clauses (1) and (2) of subsection (a) of Section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report and recommendations and findings of the Administrator and do order that the said Code of Fair Competition be and is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
October 31, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

(III)

OCTOBER 23, 1933.

The PRESIDENT,
The White House.

SIR: This is a report of the hearing on the Code of Fair Competition for the Packaging Machinery Industry and Trade of the United States, conducted in Washington on October 11, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO WAGES AND HOURS

No person under 16 years of age shall be employed nor any person under 18 years of age at hazardous occupations or those detrimental to health.

A minimum rate of 40 cents per hour shall be paid to any employee engaged in the making of the products of the Industry, and in labor operations directly incident thereto.

The minimum rate applying to any other employees shall be \$15.00 per week in any city or immediate trade area of such city of over 500,000 population; a minimum of \$14.50 in any city or trade area of such city, of between 250,000 to 500,000 population; or, \$14.00 in any city or town of less than 250,000 population or within the immediate trade area of such city or town.

Except that office boys and girls and learners may be paid not less than 80 percent of such minimum wage, the number of whom shall not be more than 5 percent of the total number of employees covered by weekly salaries.

Apprentices may be retained under contract at predetermined wages during the period of apprenticeship in order to learn the trade, but such existing and future contracts shall be filed with the Code Authority.

Employees who, by reason of physical disability or infirmity, are competent for light work only may be paid not less than 80 percent of the minimum wage and a record of each case shall be filed with the Code Authority.

Wage rates for those employees receiving more than the minimum wage shall be equitably adjusted as far as practicable, but in no case shall they be decreased.

A maximum day of 8 hours and a maximum week of 40 hours is adopted. On account of the intricate construction of the special machinery built by this Industry, the maximum hours adopted are felt to be necessary for the reason that it is impossible to change crews and a one-shift basis is the only logical mode of operation, and a shorter work week would result in no additional reemployment.

During a temporary peak demand the Industry may operate on a schedule not to exceed 48 hours in any one week or not to exceed 8 weeks in any 6 months' period, provided that time and one half

is paid for all time worked in excess of 8 hours in any one day or in excess of 40 hours in any one week.

Further exemption is made for employees engaged in emergency repair work involving breakdowns or for protection of life and property. In such cases time and one half must be paid for all time over the maximum hours herein provided.

Exceptions are also made for executives, professional persons, heads of administrative departments, factory and office supervisory staffs (not including foremen primarily engaged in productive work) and technical engineers (provided that none of the foregoing receive less than \$35.00 per week) outside service men and field salesmen, and watchmen provided that watchmen shall not work more than 56 hours in any one week.

Accounting, clerical, office service, office sales, express, delivery, stock keeping, or shipping employees shall not work more than 40 hours a week monthly average nor more than 48 hours in any one week except during the month of the annual audit.

ECONOMIC EFFECT OF THE CODE

The estimated total sales of this Industry in 1932 were 57.6 percent of sales in 1929 and represented only 29 percent of plant capacity. The lowest level of employment within recent years occurred in March 1933, and on June 15, 1933, only 1,584 were employed. Since June 15th, however, 536 employees have been added.

Increased pay rolls from reemployment and adjusted differentials in wages furnish evidence of the fullest cooperation with the spirit of the Act.

FINDINGS

(a) The Code as recommended complies in all respects with the pertinent provisions of Title I of the Act, including, without limitation, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The applicant group imposes no inequitable restrictions on admission to membership therein and is truly representative of the Packaging Machinery Industry and Trade.

(c) The Code as recommended is not designated to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE PACKAGING MACHINERY INDUSTRY AND TRADE

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are established as a "Code of Fair Competition" for the Packaging Machinery Industry and Trade.

ARTICLE II—THE INDUSTRY AND TRADE

SECTION 1. The term "packaging machinery industry", as used herein, is defined to mean the manufacturing and/or importing and/or marketing of power-driven automatic and semiautomatic or hand- or foot-operated machinery and/or equipment and parts thereof used in the manufacture of packages (except machinery for the manufacture of glass, wood, and metal packages) and in packaging processes and/or in the preparation of products for shipment.

SEC. 2. The term "packaging machinery trade", as used herein, is defined to mean and includes the business of importing and/or marketing of packaging machinery and/or equipment and parts thereof.

ARTICLE III—APPLICANT

SECTION 1. (a) The applicant for this Code is Packaging Machinery Manufacturers Institute, Incorporated, a trade organization all members of which are engaged in such manufacturing and/or importing and/or marketing, and which organization is truly representative of the industry.

(b) Applicant organization imposes and shall hereafter impose no inequitable restrictions on membership therein. The Code presented by it shall not be applied to permit or promote monopoly, to oppress or eliminate small enterprises, or to discriminate against them but to effectuate the policy of said Title I of the National Industrial Recovery Act.

ARTICLE IV—DEFINITIONS

The following terms, as used herein, unless otherwise clearly indicated by the context, are defined to have meanings respectively as follows:

The term "Employer" means any person actively engaged in manufacturing and/or importing and/or marketing any of the products of the industry and trade either as employer or on his own behalf.

The term "Employee" means any one who is employed by any such employer in any phase of the industry or trade as above defined irrespective of the nature or method of payment of his compensation.

The term "President", "Act", and "Administrator" mean, respectively, the President of the United States of America, the National Industrial Recovery Act, and the Administrator of said Act.

The term "Learner" means a youth having no previous experience in the manufacture of packaging machinery and parts thereof, and whose employment as such shall not exceed four months of working time in the industry. The intent of the industry and trade under this definition is to cooperate with trade schools.

The term "Apprentice" means a person, usually a minor, who agrees to serve an employer for a certain stated period of time at predetermined wages for the period in order to learn the trade.

The term "Population", for the purposes of this Code, shall be determined by reference to the 1930 Federal Census.

The term "Executive" shall mean any employee responsible for the management of a business, a department, or a recognized subdivision thereof.

The term "Professional person" shall mean lawyers, doctors, nurses, research technicians, advertising specialists.

The term "Outside Salesman" shall mean a salesman who is engaged not less than sixty (60) percent of his working hours outside the factory or office or any branch thereof by which he is employed.

The term "Maintenance employee" shall mean any employee who, through special training or mechanical ability, is essential to the upkeep and/or preservation of the premises and property of the establishment, and shall not include such workers as porters, elevator operators, janitors, and cleaners.

The term "Outside Service Employee" shall mean any employee when actually engaged in installing or servicing machinery and/or equipment and parts thereof outside the establishment.

The term "Watchman" shall mean an employee engaged in safeguarding the premises and property of the establishment.

The term "Establishment" shall mean any factory, office, or department wherein the manufacture, importing, and/or marketing of packaging machinery and/or equipment and parts thereof is conducted.

ARTICLE V—EMPLOYMENT

(1) Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; (2) No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and (3) Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE VI—MINORS

No employer shall employ any person under the age of sixteen (16) years, nor anyone under eighteen (18) years of age at operations or occupations hazardous or detrimental to health. The Code Authority shall submit to the Administrator before January 1, 1934, a list of such occupations. In any state an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such state empowered to issue employment or age certificates, showing that the employee is of the required age.

ARTICLE VII—WAGES

SECTION 1. (a) On and after the effective date the minimum wage that shall be paid by any employer to any employee engaged in the making of the products of the industry, and in labor operations directly incident thereto, shall be forty (40) cents per hour. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance.

(b) On and after the effective date, the minimum wage that shall be paid by any employer, to all other employees shall be not less than fifteen dollars (\$15) per week in any city of over 500,000 population or in the immediate trade area of such city, nor less than fourteen and a half dollars (\$14.50) per week in any city of between 250,000 and 500,000 population or in the immediate trade area of such city, nor less than fourteen dollars (\$14) per week in any city or town of less than 250,000 population or in the immediate trade area of such city or town.

Provided, however, that office boys or girls and learners (other than apprentices) may be paid not less than eighty (80) percent of such minimum wage, but the total number of such office boys or girls, and learners at such reduced rate shall not exceed in any calendar month five (5) percent of the total number of all employees covered by the provisions of this paragraph (b), provided that each employer may employ a minimum of one office boy or girl and a minimum of one learner.

(c) Nothing in this Article VII shall apply to, or affect, any employee apprenticed to any employer by an indenture made in pursuance of the laws of any state of the United States, or by a written contract under any apprentice system established and maintained by an employer, provided such agreements are, and each additional agreement as made is, filed with the Code Authority, and provided that this exception shall apply to such employees only during the period that they are receiving less than the minimum rate.

(d) Any employee who, by reason of physical disability or infirmity is competent only for light employment shall be paid not less than eighty (80) percent of the minimum wage referred to in paragraph (a) of this Article VII, provided that a record of each case shall be filed with the Code Authority.

(e) To the extent practicable, the wage rates of employees receiving more than the minimum wage rate shall be equitably ad-

justed, and in no case shall they be decreased as a result of this adjustment of hours, so that existing differentials shall be maintained and, to the extent practicable, recognition shall be given to the desirability of maintaining earnings, provided such adjustment has not already been made since June 16, 1933.

ARTICLE VIII—HOURS

SECTION 1. (a) On and after the effective date, no employer shall employ any employee engaged in the making of the products of the industry, and/or in labor operations directly incident thereto, in excess of forty (40) hours per week or eight (8) hours in any twenty-four (24) hour period.

(b) Provided further that these limitations of hours shall not apply to conditions of peak demand, for any department or departments which create an unusual and temporary burden for production or installation; in such cases such number of hours may be worked as are required by the necessities of the situation; but not to exceed forty-eight (48) hours per week for eight (8) weeks in any calendar six (6) months' period, beginning October 1, 1933, and each April 1 and October 1 thereafter; provided further that in such special cases time and one half shall be paid for hours worked in excess of eight (8) hours in any one day or forty (40) hours in any one week.

(c) Provided further that the maximum hours fixed in Section 1 (a) of this Article shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life and property, but, in any such special case, time and one half his normal rate shall be paid for hours worked in excess of the maximum hours therein provided.

(d) Provided further that these limitations of hours shall not apply to executives, professional persons, heads of administrative departments, factory and office supervisory staffs (not including foremen primarily engaged in productive work), and technical engineers (provided that no person receiving less than thirty-five (\$35.00) dollars per week shall be considered to come under any of the foregoing exempted classifications of this paragraph), outside service men and field salesmen, and watchmen, provided, however, that watchmen shall not work more than fifty-six (56) hours in any one week.

SEC. 2. On and after the effective date of this Code, no employer shall work any accounting, clerical, office service, office sales, express, delivery, stockkeeping, or shipping employee in the industry more than forty (40) hours a week on a monthly average, nor more than forty-eight (48) hours in any one week, except during the month of the annual audit.

SEC. 3. No employee shall work or be permitted to work for a total number of hours in excess of the number of hours prescribed for each week and day whether employed by one or more employers.

SEC. 4. In determining his classification under this Code, each employee shall be entitled to claim the benefit of the classification of occupations existing on June 16, 1933.

SEC. 5. Each employer shall post this Code in a conspicuous place in his establishment.

ARTICLE IX—STATE REGULATIONS

Within each state, this code shall not supersede the laws of such state imposing more stringent requirements, regulating the age of employees, wages, hours of work, or health, fire, or general working conditions, than under this Code.

ARTICLE X—CODE AUTHORITY

SECTION 1. To further effectuate the policies of the Act, a Code Authority is hereby set up to cooperate with the Administrator in the Administration of this Code.

SEC. 2. The Code Authority shall consist of the Code Committee of not more than five members (no two of whom shall be representatives of the same member) appointed by the Board of Directors of the Packaging Machinery Manufacturers Institute, Incorporated, together with, if nonmembers so desire, two members of the industry and trade not members of the Institute; and one or more nonvoting appointees of the National Recovery Administration, if deemed necessary by the Administrator.

Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall, (1) Impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

In order that the Code Authority shall at all times be truly representative of the industry and trade, and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and, thereafter, if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, he may require an appropriate modification in the method of selection of the Code Authority.

SEC. 3. Any member of the industry and trade is eligible for membership in the Code and/or Institute and there shall be no inequitable restriction on such membership, and all members of the industry and trade subscribing to the Code or participating in, or sharing in any way in the benefits of the activity of the Code Authority or participating in the selection thereof, shall bear a proportionate amount of the expenses of administering and enforcing the Code and of making any amendments thereto, which proportion shall be based on the gross-sales volume (for the previous calendar year) of the packaging machinery as defined in Section I or Article II, and such funds shall be collected and administered by and through the machinery of the Institute.

SEC. 4. With a view to keeping the President informed as to the observance or nonobservance of this Code, and as to whether the industry and trade is taking appropriate steps to effectuate the declared policy of the Act, each member of the industry and trade, if and when required by the Administrator, shall prepare and file

with such person or organization as the Code Authority may designate, and at such times and in such manner as the Code Authority may prescribe (to be held and used subject to the limitations of Article XI hereof), statistics of plant capacity, volume of sales in units and dollars, orders received, unfilled orders, stocks on hand, inventory, both raw and finished, number of employees, wage rates, employee earnings, and hours of work pertinent to the administration of this Code.

ARTICLE XI—DATA CONFIDENTIAL

SECTION 1. Except as otherwise provided in the Act, all statistics, data, and information filed in accordance with the provisions of the Code shall be confidential.

SEC. 2. The statistics, data, and information of one member of the industry and trade shall not be revealed to any other member of the industry and trade, except, that, for the purpose of administering or enforcing the provisions of this Code, the Code Authority, by its duly authorized representatives (who shall not be in the employ of any member of the industry and trade affected by this Code), shall have access to any and all statistics, data, and information, that may be furnished in accordance with the provisions of this Code. However, such data shall be available to the Administrator on request.

SEC. 3. In addition to the information required to be submitted to the Code Authority, there shall be furnished to government agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act.

ARTICLE XII—INVESTIGATIONS

SECTION. 1. Aggregation of members of the industry and trade having a common interest and common problems will be grouped by the Code Authority for administrative purposes into various product subdivisions.

SEC. 2. In each product subdivision there may be a Sub-Code Authority approved, or appointed, by the Code Authority. If formal complaint is made to the Code Authority that provisions of this Code have been violated by any member of the industry and trade, the Code Authority or the proper Sub-Code Authority shall investigate the facts, and to that end may cause such investigation to be made as may be deemed necessary, and shall report the results of such investigation to the Code Authority. Any action taken by the Code Authority under this Article of this Code shall be subject to review, disapproval, or modification by the Administrator.

ARTICLE XIII—UNFAIR TRADE PRACTICES

SECTION 1. It shall be an unfair trade practice for a manufacturer, importer, agent, or dealer to allege that a competing machine and/or equipment and parts thereof violates any patent unless he shall have previously notified the alleged infringer in writing, setting forth

the grounds on which such alleged infringement is based and naming the patents alleged to be infringed.

SEC. 2. It shall be an unfair trade practice to the full extent permitted by any existing patent laws for any manufacturer or importer or agent or dealer of packaging machinery and/or equipment or parts thereof to assume in any contract any obligation or liability in connection with patent infringement suits brought against the purchaser or user of the machinery and/or equipment or parts thereof, other than to assure the legal expense of suits charging that such machinery and/or equipment or parts thereof infringes, plus damages or profits not to exceed the cost price of the machinery, and/or equipment or parts thereof directly involved in such suit.

SEC. 3. *Secret Rebates.*—It shall be an unfair trade practice to make secret payment or allowance of rebates, refunds, commissions, credits or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

SEC. 4. *Commercial Bribery.*—It shall be an unfair trade practice directly or indirectly to give or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of competitors or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

SEC. 5. *Interference with Contractual Relations.*—It shall be an unfair trade practice maliciously to induce or attempt to induce the breach of any existing oral or written contract between a competitor and his customer or source of supply, or interfere with or obstruct the performance of any such contractual duties or services.

SEC. 6. *Misrepresentation or False or Misleading Advertising.*—It shall be an unfair trade practice to make or cause or knowingly permit to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry and trade, or the credit terms, values, policies, or services of any member of the industry and trade, or otherwise, having the tendency or capacity to mislead or deceive customers or prospective customers.

SEC. 7. Particular product groups of competitors within the Packaging Machinery Industry and Trade may, with the approval of the Code Authority and the Administrator and the President, establish supplementary codes of fair trade practices applying to their particular products, covering such problems as costs, trade-in allowances, selling on trial basis, charges for installation, demonstration and service, and other problems. Such a supplementary code shall apply to all members of the particular product group within the industry and trade, on that part of their business covered by the product definition.

SEC. 8. Where before June 16, 1933, the members of the industry and trade have contracted to purchase goods at a fixed price for

delivery during the period of this agreement, the members of the industry and trade will make an appropriate adjustment of said fixed price to meet any increase in cost caused by the seller having signed the President's Reemployment Agreement or having become bound by any Code of Fair Competition approved by the President.

SEC. 9. No section of this Article XIII of this Code shall apply to sales outside of the United States of America.

SEC. 10. Nothing in this Code shall limit the effect of any adjudication by the courts or holding by the Federal Trade Commission on complaint, finding, and order, that any practice or method is unfair, providing that such adjudication or holding is not inconsistent with any provision of the Act or this Code.

SEC. 11. If any member of the industry and trade is also a member of any other industry and trade, the provisions of this article of this Code shall apply to, and affect, *only* that part of his business and product which is included in this industry and trade.

ARTICLE XIV—MODIFICATION

This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel and modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XV—AMENDMENTS CONTEMPLATED

SECTION 1. (a) Such of the provisions of this Code as are not required by the Act to be included herein, may, with the approval of the President, be modified or eliminated as changed circumstances or experience may indicate.

(b) This Code is intended to be a basic Code. Study of the trade practices of the industry and trade will be continued by the Code Authority with the intention of submitting from time to time additions to, or revisions of, or supplements to, this Code.

(c) Any such amendments, additions, revisions, or supplements proposed by the Code Authority and approved by the President shall be in full force and effect after such approval.

ARTICLE XVI—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases should be delayed and that when made, the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

ARTICLE XVII—EFFECTIVE DATE

This Code shall become effective and binding on all persons engaged in the industry and trade on the eleventh day after its approval by the President and shall not be otherwise effective.

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